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ATTORNEY DOCKET NO. APPLICATION NO. FILING DATE FIRST NAMED INVENTOR CONFIRMATION NO. 09/16/2003 William Scott Carmichael C0959.10.U 4499 10/663,888 EXAMINER 08/12/2004 29633 7590 ROGERS TOWERS, P.A. ZEC, FILIP 1301 RIVERPLACE BOULEVARD, SUITE 1500 ART UNIT PAPER NUMBER JACKSONVILLE, FL 32207

> 3744 DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

		Applicati	on No.	Applicant(s)	- O
		10/663,8	88	CARMICHAEL ET AL.	
	Office Action Summary	Examine	r	Art Unit	
		Filip Zec		3744	
Period fo	The MAILING DATE of this communica or Reply	tion appears on th	e cover sheet with the c	orrespondence address	
THE - External after - If the - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR MAILING DATE OF THIS COMMUNICA assions of time may be available under the provisions of SIX (6) MONTHS from the mailing date of this communication period for reply specified above is less than thirty (30) of period for reply is specified above, the maximum statutive to reply within the set or extended period for reply will reply received by the Office later than three months after ed patent term adjustment. See 37 CFR 1.704(b).	ATION. 87 CFR 1.136(a). In no excation. lays, a reply within the sta ory period will apply and w , by statute, cause the app	rent, however, may a reply be timulation tutory minimum of thirty (30) days will expire SIX (6) MONTHS from blication to become ABANDONE	nely filed s will be considered timely. the mailing date of this communicati D (35 U.S.C. § 133).	ion.
Status					
1)	Responsive to communication(s) filed	on .			
2a) This action is FINAL . 2b) This action is non-final.					
3)□	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.				
Dispositi	ion of Claims				
5)□ 6)⊠ 7)□	 ✓ Claim(s) 1-27 is/are pending in the application. ✓ 4a) Of the above claim(s) is/are withdrawn from consideration. ✓ Claim(s) is/are allowed. ✓ Claim(s) 1-27 is/are rejected. ☐ Claim(s) is/are objected to. ☐ Claim(s) are subject to restriction and/or election requirement. 				
Applicati	ion Papers				
10)⊠	The specification is objected to by the E The drawing(s) filed on <u>16 September 2</u> Applicant may not request that any objection Replacement drawing sheet(s) including the The oath or declaration is objected to be	2 <u>003</u> is/are: a)☐ a on to the drawing(s) e correction is requi	be held in abeyance. See red if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121	(d).
Priority (ınder 35 U.S.C. § 119				
12)[_ a)[Acknowledgment is made of a claim for All b) Some * c) None of: 1. Certified copies of the priority do 2. Certified copies of the priority do 3. Copies of the certified copies of application from the International See the attached detailed Office action from	cuments have bee cuments have bee the priority docum I Bureau (PCT Ru	en received. en received in Applicati ents have been receive le 17.2(a)).	on No ed in this National Stage	
2) Notic 3) Inform	t(s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO mation Disclosure Statement(s) (PTO-1449 or PT r No(s)/Mail Date <u>1</u> .		4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:		

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 1-15 and 17-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,614,017 to Nuhrah et al. Looking at FIG. 3 of Nuhrah, one notices all elements claimed by the applicant, namely an icebox container (1, FIG. 10) for cooling cans or bottles (4), by direct contact with ice water (col 1, lines 50-54), having a main compartment (2a) accessible from top via a lid (10), a vertically oriented chute (2b) having a lower opening (FIG. 3a) for providing ingress into the main compartment, a removable ramp (5) for directing the cans along the bottom of the container and a divider (2c) between the chute and the main compartment. Claim 5 of Nuhrah also teaches that the entire structure (2) is used as an insert and, therefor, can be removed from an icebox. Since the whole structure is removable, the retaining means claimed presently by the applicant with respect to either a divider or a main compartment, is the outer lip (1, FIG. 1). Finally, the hinged lever arm (5) can hold the bottles and cans and represents the horizontal shelf parallel to the bottom presently claimed by the applicant.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,614,017 to Nuhrah et al. Nuhrah discloses applicant's basic inventive concept, an icebox container (FIG. 3) for cooling cans or bottles (34), by direct contact with ice water (claim 6), having a main compartment (22, 24) and a vertically oriented chute (36) having a lower opening (at 46) for providing ingress into the main compartment, substantially as claimed with the exception of having the main compartment accessible from its top via a lid. However, Nuhrah does show the lid (38, FIG. 2) for the chute. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Nuhrah to modify the system by using the lid in the chute in order to access the main cooling compartment.
- 5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,614,017 to Nuhrah et al., in view of U.S. Patent 4,509,587 to Clark et al. Nuhrah discloses applicant's basic inventive concept, an icebox container for cooling cans or bottles, by direct contact with ice water, having a main compartment accessible from top via a lid, a vertically oriented chute having a lower opening for providing ingress into the main compartment, a removable ramp for directing the cans along the bottom of the container and a divider between the chute and the main compartment, substantially as claimed with the exception of stating the use of apertures in the dividing wall. Clark shows this features to be old in the cooling art (102, FIG. 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Clark to modify the system of Nuhrah, by adding apertures in the dividing wall in order to provide for the flow of the cooling fluid into the chute.

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Drawings

6. New corrected drawings in compliance with 37 CFR 1.121(d), are required in this application because the current drawings contain handwritten numbers, not acceptable by USPTO standards. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Conclusion

- 7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - U.S. Patent 4,499,998 to Carlson, Arthur R.
 - U.S. Patent 6,536,228 to Hall, Matthew C.
 - U.S. Patent 5,915,551 to Vavro, David J.
- 5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (703) 306-3446. The examiner can normally be reached on Monday through Friday, with the exception of every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec Examiner Art Unit 3744

CHERYL J. TYLER (PRIMARY EXAMINER

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